

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**CHARLESTON DIVISION**

DAVID NELSON,

Plaintiff,

v.

CIVIL ACTION NO. 2:09-cv-01316

PROSECUTOR C. MICHAEL SPARKS, and  
MINGO COUNTY PROSECUTOR'S OFFICE

Defendants.

**MEMORANDUM OPINION AND ORDER**

Before the Court is Petitioner David Nelson's Application to Proceed Without Prepayment of Fees [Docket 1] and Complaint [Docket 2]. By Standing Order entered August 1, 2006, and filed in this case on December 9, 2009, this action was referred to United States Magistrate Judge Mary E. Stanley for submission of proposed findings and a recommendation (PF&R). Magistrate Judge Stanley filed her PF&R [Docket 5] on January 12, 2010, recommending that this Court dismiss this case for failure to state a claim upon which relief can be granted and deny Plaintiff's Application to Proceed without Prepayment of Fees and Costs.

The Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir.1989);


*United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections to the PF&R in this case were due on February 1, 2010. To date, no objections have been filed.

Accordingly, the Court **ADOPTS** the PF&R [Docket 5], **DENIES** the Application to Proceed Without Prepayment of Fees [Docket 1], **DISMISSES** the Complaint [Docket 2], and **DISMISSES** this case from the docket. A separate Judgment Order will enter this day implementing the rulings contained herein.

**IT IS SO ORDERED.**

The court **DIRECTS** the Clerk to send a certified copy of this Memorandum Opinion and Order to counsel of record and any unrepresented party.

ENTER: February 12, 2010

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THOMAS E. JOHNSTON  
UNITED STATES DISTRICT JUDGE